

§ 46.8

7 CFR Ch. I (1-1-06 Edition)

shall be deposited in a special fund designated as the "Perishable Agricultural Commodities Act fund."

§ 46.8 Copies of licenses.

Copies of licenses may be issued upon request and upon the payment of a fee of two dollars (\$2) for each copy. Each copy shall bear the word "copy" in conspicuous letters on its face and shall be certified by the Director as a true copy of the original.

§ 46.9 Termination, suspension, revocation, cancellation of licenses; notices; renewal.

(a) Under section 3(c) of the Act the license can be suspended if the licensee continues to use a trade name after being notified by the Director that such trade name has been disapproved.

(b) Under section 4(a) of the Act, after October 1, 1962, the license of any individual, corporation or association shall automatically terminate on the date of discharge in bankruptcy and the license of any partnership shall automatically terminate on the date of the discharge in bankruptcy of any of the general partners in the partnership.

(c) Under section 4(c) of the Act if a license is issued under a bond and the bond is terminated for any reason without the approval of the Director, within four years from the date of the issuance of the license, the license shall be automatically cancelled as of the date of termination and no new license shall be issued to such person during the four-year period without a new surety bond covering the remainder of such period. Also, if the Director notifies the licensee that a bond in an increased amount is required and the licensee fails to provide such a bond within the specified time the license of such licensee shall be automatically suspended until such bond is provided.

(d) Under section 8(a) of the Act a license can be suspended or revoked for violations of section 2 of the Act or when the licensee is found guilty in a Federal Court of having violated section 14(b) of the Act.

(e) Under section 8(b) of the Act a license can be suspended or revoked if the licensee continues to employ any person in violation of the provisions of

this section. Also, if any licensee is authorized to employ any person under a bond in accordance with this section and is notified by the Director subsequently to provide a bond in an increased amount and fails to provide such a bond within the time specified, approval of employment shall automatically terminate.

(f) Under section 8(c) of the Act a license can be revoked for any false or misleading statement, or through a misrepresentation or concealment or withholding of facts in connection with an application for a license.

(g) Under section 9 of the Act a license can be suspended if the licensee fails to keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business including the true ownership of such business by stock-holding or otherwise.

(h) Under section 13 of the Act a license can be suspended:

(1) If the licensee refuses to permit inspection of his records or of any lot of produce under his ownership or control; or

(2) If the licensee, subsequent to a determination in a formal disciplinary proceeding that it has violated the prompt payment provision of Section 2(4) of the Act, refuses to permit an inspection of its accounts, records and memoranda to insure that it is in compliance with the prompt payment provision of section 2(4) of the Act or fails or refuses to furnish, maintain, or adjust a surety bond in a form and amount satisfactory to the Secretary.

(i) Under section 4(a) of the Act, at least 30 days prior to the anniversary date of a valid and effective license, the Director shall mail a notice to the licensee at the last known address advising that the license will automatically terminate on its anniversary date unless an application for renewal is filed supplying all information requested on a form to be supplied by the Division, and unless the renewal fee (if any is applicable) is paid on or before such date. If the renewal application is not filed and/or the renewal fee (if required) is not paid by the anniversary date, the licensee may obtain a renewal of that license at any time within 30

Agricultural Marketing Service, USDA

§ 46.12

days by submitting the required renewal application and/or paying the renewal fee (if required), plus \$50. Within 60 days after the termination date of a valid and effective license, the former licensee shall be notified of such termination, unless a new license has been obtained in the meantime.

(j) Beginning on December 1, 1998, the renewal period for new licenses issued to retailers and grocery wholesalers is three years.

(k) Beginning on December 1, 1998, commission merchants, brokers, and dealers (other than grocery wholesalers and retailers) who are new or existing licensees, may choose to renew their licenses on an annual, biennial, or triennial basis. In the event that the holder of a multi-year license ceases business operations or undergoes a change in legal status that results in the issuance of a new license prior to the next license renewal date, a refund will be issued of any remaining full-year portion of advance fee paid, minus a \$100 processing fee.

(l) Retailers and grocery wholesalers who are existing licensees as of December 1, 1998, will be phased into the three-year renewal process during the succeeding one-year as follows:

(1) Licenses held by retailers and grocery wholesalers ending in the digits "0," "3," "6," or "9," will be renewed on a triennial basis.

(2) Licenses held by retailers and grocery wholesalers ending in the digits "1," "4," or "7," will be renewed for two years and thereafter on a triennial basis.

(3) Licenses held by retailers and grocery wholesalers ending in the digits "2," "5," or "8," will renew their licenses after one year, and thereafter on a triennial basis.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 44 FR 50576, Aug. 29, 1979; 62 FR 15087, Mar. 31, 1997; 63 FR 64172, Nov. 19, 1998]

§ 46.10 Nonlicensed person; liability; penalty.

Any commission merchant, dealer, or broker who violates the Act by engaging in business subject to the Act without a license may settle its liability, if such violation is found by the Director not to have been willful but due to in-

advertence, by submitting the required application and paying the amount of fees that it would have paid had it obtained and maintained a license during the period that it engaged in business subject to the Act, plus an additional sum not in excess of two hundred and fifty dollars (\$250) as may be determined by the Director.

[62 FR 15087, Mar. 31, 1997]

§ 46.11 What constitutes valid license, form and use.

Each license shall bear a serial number, the names in which authorized to conduct business, type of ownership, if the business is individually owned, the name of the owner; if a partnership, the names of all general partners; if a limited liability company, the names of all members, managers, officers, directors and holders of more than 10 percent of the ownership stake, and the percentage of ownership in the company held by each such person; if a corporation or association, the names of all officers, directors, and shareholders of more than 10 percent of the outstanding stock and the percentage of stock held by each such person; the facsimile signature of the Deputy Administrator, the seal of the Department and shall be duly countersigned. The licensee may place upon his stationery, trucks, or business sign an inscription indicating that he is licensed under the Act, but such inscription must not be of such form or arrangement as to be deceptive or misleading to the public, nor shall any such inscription be displayed or used unless the person using the inscription has a license valid and effective at the time.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 65 FR 24854, Apr. 28, 2000]

§ 46.12 Forms of inscriptions.

The following inscriptions, for use with or without the license number, meet the foregoing requirements and may be used by licensees: "Licensed by the U.S. Department of Agriculture under the Perishable Agricultural Commodities Act", or "Licensed under the PACA."